

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for
Reinstatement of:

WILLIAM H. MAZZARELLA II

Registered Nurse License No. 530630

Petitioner.


OAH No. 2008010795

DECISION

The attached Decision of the Board of Registered Nursing is hereby adopted by the Board
as its Decision in the above-entitled matter.

This Decision shall become effective on April 18, 2008.

IT IS SO ORDERED this 20th day of March 2008.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for
Reinstatement of Revoked License of:

WILLIAM H. MAZZARELLA II,

Petitioner.

OAH No. 2008010795

DECISION

This matter was heard before a quorum of the Board of Registered Nursing in Emeryville, California, on February 21, 2008. Michael C. Cohn, Administrative Law Judge, State of California, Office of Administrative Hearings, presided.

The Department of Justice, Office of the Attorney General, was represented by Hannah Hirsch Rose, Deputy Attorney General.

Petitioner William H. Mazzarella represented himself.

FACTUAL FINDINGS

1. Petitioner William H. Mazzarella was issued registered nurse license number 530630 on March 10, 1997. In October 2000, an amended accusation was issued against petitioner, alleging that cause for discipline existed pursuant to Business and Professions Code sections 2750, 2761, 2761, subdivision (a), and 2761, subdivision (f), in that petitioner had: 1) been convicted of driving under the influence in 1997; 2) been convicted of hit and run resulting in injury in 1998; 3) had his temporary permit to practice registered nursing in Connecticut suspended in 1999 and revoked in 2000 for diverting controlled substances from a hospital in which he was working in that state; 4) unlawfully possessed methamphetamine in 2000; and 5) falsified or made grossly inconsistent or unintelligible entries in hospital and patient records pertaining to controlled substances and dangerous drugs in 1999. In December 2000, petitioner signed a stipulation for surrender of his license in which he agreed that if he ever petitioned for reinstatement of his license all allegations of the amended accusation would be deemed true and admitted by him, and that if a petition for reinstatement were granted by the board he would be required to repay the reasonable costs of investigation and prosecution in the amount of \$15,565.25.

2. Petitioner fully recognizes the severity of his past conduct. He makes no attempt to minimize it, recognizing that he made a number of "poor and unethical decisions." He had become addicted to methamphetamine after trying it on one occasion and liking the

way it made him feel. He soon began to buy the drug "constantly." His use increased to the point he recognized he was putting himself and his patients at risk. He stopped using the drug, but then began diverting Demerol. He was caught doing this in Connecticut, where he was working as a traveling nurse, and had his license summarily suspended. Returning to California, he worked at Desert Hospital in Palm Springs, where he was again caught diverting Demerol. After he was convicted in January 2001 for prescription drug fraud as a result of his conduct at Desert Hospital, petitioner entered a residential rehabilitation treatment program at Twelve Step Programs of California.

3. Petitioner entered the 'Twelve Step Programs' clean and sober living residence in San Francisco in May 2001. He successfully completed the six-month residential program in November 2001. Petitioner thereafter chose to remain as a resident in the sober living environment until September 2003. During this time, petitioner was tested and monitored in the Twelve Step Programs' transition program, and he became a house manager. Except for one relapse in July 2005, when petitioner used methamphetamine at a party, he has been clean and sober for seven years. After using methamphetamine on that occasion, petitioner suffered a panic attack and readily admitted his drug use to police officers who had responded to a noise complaint about the party. Petitioner disclosed this relapse to the board in his petition for reinstatement of his license.

4. Another period of outpatient treatment and testing followed petitioner's being placed on diversion following the July 2005 offense. In 2006, petitioner moved to Oregon. He enrolled in the Chemical Dependency Credentialing Program at Rogue Community College in order to become a drug and alcohol counselor. In August 2006, petitioner began performing his educational and credentialing internship at the Genesis Recovery Center in Central Point Oregon. Prior to undertaking that internship, petitioner fully and candidly disclosed his past substance abuse. Petitioner was a successful intern and in May 2007 was hired as a chemical dependency counselor at Genesis. He has received glowing recommendations from his co-workers and supervisors. Petitioner plans to take the national certification examination as a drug and alcohol counselor in March 2008.

5. Petitioner is active in AA. He attends meetings regularly, chairs one weekly meeting, talks to his sponsor daily, and sponsors other members. Petitioner believes he has a solid recovery and a large and strong support system.

6. Petitioner's nursing experience has all been in the med-surg area and he would like to resume that work if his license is reinstated. He would also like to do drug and alcohol counseling. If his license is reinstated petitioner plans to return to California to work during his probationary period. He is prepared to take any necessary nursing courses and to pay cost recovery.

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LEGAL CONCLUSIONS

Petitioner established to the satisfaction of the board that it would not be against the public interest to reinstate his registered nurse license upon appropriate terms and conditions. Because of petitioner's history of substance abuse, those conditions must include those related to drug and alcohol use.

ORDER

The petition of William H. Mazzarella II for reinstatement of licensure is hereby granted. Registered nurse license number 530630 is reinstated. The license shall be immediately revoked, the order of revocation stayed, and petitioner placed on probation for a period of three years on the following conditions:

SEVERABILITY CLAUSE – Each condition of probation contained herein is a separate and distinct condition. If any condition of this order, or any application thereof, is declared *unenforceable in whole, in part, or to any extent*, the remainder of this order, and all other applications thereof, shall not be affected. Each condition of this order shall separately be valid and enforceable to the fullest extent permitted by law.

(1) **OBEY ALL LAWS** - Petitioner shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by petitioner to the board in writing within 72 hours of occurrence. To permit monitoring of compliance with this condition, petitioner shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

CRIMINAL COURT ORDERS: If petitioner is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

(2) **COMPLY WITH THE BOARD'S PROBATION PROGRAM** - Petitioner shall fully comply with the conditions of the probation program established by the board and shall cooperate with representatives of the board in its monitoring and investigation of petitioner's compliance with the board's probation program. Petitioner shall inform the board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the board, including during any period of suspension.

Upon successful completion of probation, petitioner's license shall be fully restored.

(3) **REPORT IN PERSON** - Petitioner, during the period of probation, shall appear in person at interviews/meetings as directed by the board or its designated representatives.

(4) RESIDENCY, PRACTICE, OR LICENSURE OUTSIDE OF STATE -

Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Petitioner's probation is tolled if and when he resides outside of California. Petitioner must provide written notice to the board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Petitioner shall provide a list of all states and territories where he has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Petitioner shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Petitioner shall inform the board if he applies for or obtains a new nursing license during the term of probation.

(5) SUBMIT WRITTEN REPORTS - Petitioner, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the board. These reports/declarations shall contain statements relative to petitioner's compliance with all the conditions of the board's probation program. Petitioner shall immediately execute all release of information forms as may be required by the board or its representatives.

Petitioner shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which has a registered nurse license.

(6) FUNCTION AS A REGISTERED NURSE - Petitioner, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for six consecutive months or as determined by the board.

For purposes of compliance with this section, "engage in the practice of registered nursing" may include, when approved by the board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for six consecutive months or as determined by the board.

If petitioner has not complied with this condition during the probationary term, and petitioner has presented sufficient documentation of his good faith efforts to comply with this condition, and if no other conditions have been violated, the board, in its discretion, may grant an extension of petitioner's probation period without further hearing in order to comply with this condition. During the one-year extension, all original conditions of probation shall apply.

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(7) EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS -

Petitioner shall obtain prior approval from the board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Petitioner shall cause to be submitted to the board all performance evaluations and other employment related reports as a registered nurse upon request of the board.

Petitioner shall provide a copy of this decision to his employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, petitioner shall notify the board in writing within 72 hours after he obtains any nursing or other health care related employment. Petitioner shall notify the board in writing within 72 hours after he is terminated or separated, regardless of cause, from any nursing or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

(8) SUPERVISION - Petitioner shall obtain prior approval from the board regarding petitioner's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Petitioner shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Petitioner's level of supervision and/or collaboration may include, but is not limited to the following:

- (a) Maximum – The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.
- (b) Moderate – The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours petitioner works.
- (c) Minimum – The individual providing supervision and/or collaboration has person-to-person communication with petitioner at least twice during each shift worked.
- (d) Home Health Care – If petitioner is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with petitioner as required by the board each work day. Petitioner shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the board during

each work day. The individual providing supervision and/or collaboration shall conduct, as required by the board, periodic on-site visits to patients' homes visited by petitioner with or without petitioner present.

(9) EMPLOYMENT LIMITATIONS - Petitioner shall not work for a nurse's registry, a temporary nurse placement agency, an in-house nursing pool, in any private duty position as a registered nurse, or as a traveling nurse.

Petitioner shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the board. Petitioner shall not work in any other registered nursing occupation where home visits are required.

Petitioner shall not work in any health care setting as a supervisor of registered nurses. The board may additionally restrict petitioner from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Petitioner shall not work as a faculty member in an approved school of nursing or as an instructor in a board-approved continuing education program.

Petitioner shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If petitioner is working or intends to work in excess of 40 hours per week, the board may request documentation to determine whether there should be restrictions on the hours of work.

(10) COMPLETE A NURSING COURSE(S) - Petitioner, at his own expense, shall enroll in and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of his probationary term.

Petitioner shall obtain prior approval from the board before enrolling in the course(s). Petitioner shall submit to the board the original transcripts or certificates of completion for the above required course(s). The board shall return the original documents to petitioner after photocopying them for its records.

(11) COST RECOVERY - Petitioner shall pay to the board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$15,565.25. Petitioner shall be permitted to pay these costs in a payment plan approved by the board, with payments to be completed no later than three months prior to the end of the probation term.

If petitioner has not complied with this condition during the probationary term and petitioner has presented sufficient documentation of his good faith efforts to comply with this condition, and if no other conditions have been violated, the board, in its

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discretion, may grant an extension of petitioner's probation period up to one year without further hearing in order to comply with this condition. During the one-year extension, all original conditions of probation will apply.

(12) VIOLATION OF PROBATION - If petitioner violates the conditions of his probation, the board after giving petitioner notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation) of petitioner's license.

If during the period of probation an accusation or petition to revoke probation has been filed against petitioner's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against petitioner's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the board.

(13) LICENSE SURRENDER - During petitioner's term of probation, if he ceases practicing due to retirement or health reasons, or is otherwise unable to satisfy the conditions of probation, petitioner may surrender his license to the board. The board reserves the right to evaluate petitioner's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, petitioner will no longer be subject to the conditions of probation.

Surrender of petitioner's license shall be considered a disciplinary action and shall become a part of petitioner's license history with the board. A registered nurse whose license has been surrendered may petition the board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

- 1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or
- 2) One year for a license surrendered for a mental or physical illness.

(14) PHYSICAL EXAMINATION - Within 45 days of the effective date of this decision, petitioner, at his expense, shall have a licensed physician, nurse practitioner, or physician assistant, who is approved by the board before the assessment is performed, submit an assessment of petitioner's physical condition and capability to perform the duties of a registered nurse. Such an assessment shall be submitted in a format acceptable to the board. If medically determined, a recommended treatment program will be instituted and followed by petitioner with the physician, nurse practitioner, or physician assistant providing written reports to the board on forms provided by the board.

If petitioner is determined to be unable to practice safely as a registered nurse, the licensed physician, nurse practitioner, or physician assistant making this determination shall immediately notify the board and petitioner by telephone, and the board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Petitioner shall immediately cease practice and shall not resume practice until notified by the board. During this period of suspension, petitioner shall not engage in any practice for which a license issued by the board is required until the board has notified petitioner that a medical determination permits petitioner to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If petitioner fails to have the above assessment submitted to the board within the 45-day requirement, petitioner shall immediately cease practice and shall not resume practice until notified by the board. This period of suspension will not apply to the reduction of this probationary time period. The board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by petitioner to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

(15) PARTICIPATE IN TREATMENT/REHABILITATION PROGRAM FOR CHEMICAL DEPENDENCE - Petitioner, at his expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a board-approved treatment/rehabilitation program of at least six months duration. As required, reports shall be submitted by the program on forms provided by the board. If petitioner has not completed a board-approved treatment/rehabilitation program prior to commencement of probation, petitioner, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed within the first nine months of probation, the board shall consider petitioner in violation of probation.

Based on board recommendation, each week petitioner shall be required to attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Petitioner shall submit dated and signed documentation confirming such attendance to the board during the entire period of probation. Petitioner shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

(16) ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS - Petitioner shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Petitioner shall have sent to the board, in writing and within 14 days, by the

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prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, petitioner's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Petitioner shall identify for the board a single physician, nurse practitioner or physician assistant who shall be aware of petitioner's history of substance abuse and will coordinate and monitor any prescriptions for petitioner for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the board on a quarterly basis petitioner's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

(17) SUBMIT TO TESTS AND SAMPLES - Petitioner, at his expense, shall participate in a random, biological fluid testing or a drug screening program which the board approves. The length of time and frequency will be subject to approval by the board. Petitioner is responsible for keeping the board informed of petitioner's current telephone number at all times. Petitioner shall also ensure that messages may be left at the telephone number when he is not available and ensure that reports are submitted directly by the testing agency to the board, as directed. Any confirmed positive finding shall be reported immediately to the board by the program and petitioner shall be considered in violation of probation.

In addition, petitioner, at any time during the period of probation, shall fully cooperate with the board or any of its representatives, and shall, when requested, submit to such tests and samples as the board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If petitioner has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the board files a petition to revoke probation or an accusation, the board may suspend petitioner from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

If petitioner fails to participate in a random, biological fluid testing or drug screening program within the specified time frame, petitioner shall immediately cease practice and shall not resume practice until notified by the board. After taking into account documented evidence of mitigation, if the board files a petition to revoke probation or an accusation, the board may suspend petitioner from practice pending the final

decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.(18) MENTAL HEALTH EXAMINATION - Petitioner shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate to determine his capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the board. All costs are the responsibility of petitioner. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by petitioner.

If petitioner is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the board and petitioner by telephone, and the board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Petitioner shall immediately cease practice and may not resume practice until notified by the board. During this period of suspension, petitioner shall not engage in any practice for which a license issued by the board is required, until the board has notified petitioner that a mental health determination permits petitioner to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If petitioner fails to have the above assessment submitted to the board within the 45-day requirement, petitioner shall immediately cease practice and shall not resume practice until notified by the board. This period of suspension will not apply to the reduction of this probationary time period. The board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by petitioner to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

(19) THERAPY OR COUNSELING PROGRAM - Petitioner, at his expense, shall participate in an on-going counseling program until such time as the board releases him from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

DATED: March 20, 2008



LaFRANCINE TATE

President

Board of Registered Nursing

Department of Consumer Affairs

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8 BEFORE THE
BOARD OF REGISTERED NURSING
9 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
10

11 In the Matter of the First) Case No. 2001-56
Amended Accusation Against:)
12)
WILLIAM H. MAZZARELLA II) STIPULATION FOR SURRENDER
13 584 Castro Street, #503) OF LICENSURE, DECISION AND
San Francisco, CA 94114) ORDER
14)
Registered Nurse License)
15 No. 530630,)
Respondent.)
16)

17 In the interest of a prompt and speedy settlement, and
18 consistent with the public interest and responsibility of the
19 Board of Registered Nursing, Department of Consumer Affairs,
20 State of California (hereinafter the "Board"), the parties hereby
21 submit this Stipulation for Surrender of Licensure, Decision and
22 Order to the Board for its consideration, approval and adoption
23 as the final disposition of First Amended Accusation No. 2001-56
24 which is currently pending against William H. Mazzarella II
25 before the Board.

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1 IT IS HEREBY STIPULATED AND AGREED by and between the
2 parties to the above-entitled proceedings that the following
3 matters are true:

4 PARTIES

5 1. Complainant Ruth Ann Terry, M.P.H., R.N., Executive
6 Officer of the Board, is represented herein by Bill Lockyer,
7 Attorney General of the State of California, by Thomas S. Lazar,
8 Deputy Attorney General.

9 2. William H. Mazzaella II (hereinafter "respondent")
10 is represented herein by Hugh Anthony Levine, Esq.

11 JURISDICTION

12 3. On or about March 10, 1997, the Board issued
13 Registered Nurse License No. 530630 to respondent. Said license
14 was in full force and effect at all times relevant herein and
15 will expire on May 31, 2002, unless renewed.

16 4. On August 31, 2000, Accusation No. 2001-56 was
17 filed against respondent before the Board. Respondent hereby
18 stipulates that he has received a copy of Accusation No. 2001-56
19 and all other statutorily required documents. On or about
20 October 3, 2000, a Notice of Defense was filed on respondent's
21 behalf by his attorney of record, Hugh Anthony Levine, Esq.

22 5. On or about October 31, 2000, First Amended
23 Accusation No. 2001-56 was filed against respondent before the
24 Board. Respondent hereby stipulates that he has received a copy
25 of First Amended Accusation No. 2001-56. A true and correct copy
26 of First Amended Accusation No. 2001-56 is attached hereto as

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1 Attachment "A" and is hereby incorporated by reference as if
2 fully set forth herein.

3 ADVISEMENT AND WAIVERS

4 6. Respondent has carefully read and fully understands
5 the charges and allegations contained in First Amended Accusation
6 No. 2001-56 and has fully reviewed same with his attorney of
7 record, Hugh Anthony Levine, Esq.

8 7. Respondent has carefully read and fully understands
9 the contents, force, and effect of this Stipulation for Surrender
10 of Licensure, Decision and Order and has fully reviewed same with
11 his attorney of record, Hugh Anthony Levine, Esq.

12 8. Respondent is fully aware of his right to a hearing
13 on the charges and allegations contained in First Amended
14 Accusation No. 2001-56, his right to present witnesses and
15 evidence on his own behalf, his right to cross-examine all
16 witnesses testifying against him, his right to reconsideration,
17 judicial review, appeal, and all other rights which may be
18 accorded him pursuant to the California Administrative Procedure
19 Act, the California Code of Civil Procedure, and all other
20 applicable laws, having been fully advised of same by his
21 attorney of record, Hugh Anthony Levine, Esq.

22 9. Respondent, having the benefit of counsel, hereby
23 knowingly, intelligently, freely and voluntarily waives each and
24 every one of the above rights.

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EFFECT OF SURRENDER

10. Respondent fully understands that, by signing this stipulation, he is enabling the Board to accept his surrender of his Registered Nurse License No. 530630 without further notice, opportunity to be heard, or process.

11. In the event that the Board, in its discretion, approves and adopts this Stipulation for Surrender of Licensure, Decision and Order, respondent understands that, as of the effective date of this Decision, he will no longer be permitted to practice as a registered nurse in the State of California and, in that event, respondent agrees to surrender and cause to be delivered to the Board both his pocket license and wall certificate before the effective date of this Decision.

12. Respondent hereby stipulates that if he ever petitions for reinstatement of Registered Nurse License No. 530630, the charges and allegations contained in First Amended Accusation No. 2001-56, and each of them, shall be deemed true, correct, and fully admitted by respondent for all purposes and proceedings including, but not limited to, any proceeding involving respondent and/or any petition for reinstatement he may file, any proceeding involving the Board, and/or any proceeding involving any other licensing agency.

13. Should respondent ever apply for any other license or certification by any other health care licensing agency, all of the charges contained in First Amended Accusation No. 2001-56, and each of them, shall be deemed true, correct, and fully admitted by respondent for purposes of any Statement of Issues or

1 any other proceeding seeking to deny or restrict such
2 application.

3 14. Respondent fully understands and agrees that, if
4 he ever files an application for relicensure or reinstatement in
5 the State of California, the Board shall treat it as a petition
6 for reinstatement. Respondent must comply with all the laws,
7 regulations and procedures for reinstatement of a revoked license
8 in effect at the time the petition is filed, and all of the
9 charges and allegations contained in First Amended Accusation No.
10 2001-56 will be deemed to be true, correct and fully admitted by
11 respondent when the Board determines whether to grant or deny the
12 petition.

13 15. In the event that the Board, in its discretion,
14 approves and adopts this Stipulation for Surrender of Licensure,
15 Decision and Order, respondent fully understands and agrees that
16 he may not petition for reinstatement of his surrendered
17 Registered Nurse License No. 530630 until a period of not less
18 than two (2) years has elapsed from the effective date of this
19 Decision.

20 16. Respondent fully understands that, in the event
21 that the Board, in its discretion, approves and adopts this
22 Stipulation for Surrender of Licensure, Decision and Order, it
23 shall constitute formal disciplinary action against respondent's
24 Registered Nurse License No. 530630 and shall become a part of
25 respondent's license and disciplinary history with the Board.

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1 COST RECOVERY

2 17. Respondent further agrees that if he ever
3 petitions for reinstatement of Registered Nurse License No.
4 530630 and in the event the Board grants the petition, respondent
5 shall be required to reimburse the Board, upon reinstatement of
6 the license, for its reasonable costs of investigation and
7 prosecution in this case in the amount of fifteen thousand five
8 hundred sixty-five dollars and twenty-five cents (\$15,565.25).
9 In that event, respondent shall be permitted to pay these costs
10 in a payment plan approved by the Board.

11 ADDITIONAL PROVISIONS

12 18. The parties agree that facsimile copies of this
13 Stipulation for Surrender of Licensure, Decision and Order,
14 including facsimile signatures of the parties, may be used in
15 lieu of original documents and signatures and, further, that
16 facsimile copies shall have the same force and effect as
17 originals.

18 19. The parties agree that this Stipulation for
19 Surrender of Licensure, Decision and Order shall be submitted to
20 the Board for its consideration in the above-entitled matter and,
21 further, that the Board shall have a reasonable period of time
22 to consider and act on this Stipulation for Surrender of
23 Licensure, Decision and Order after receiving it.

24 20. This Stipulation for Surrender of Licensure,
25 Decision and Order is intended by the parties herein to be an
26 integrated writing representing the complete, final and exclusive
27 embodiment of the agreements of the parties.

1 21. Each provision of this Stipulation for Surrender
2 of Licensure, Decision and Order is a separate and distinct
3 provision. If any provision of this Stipulation for Surrender of
4 Licensure, Decision and Order, and/or any application thereof, be
5 declared unenforceable in whole, in part, or to any extent, the
6 remainder of this Stipulation for Surrender of Licensure,
7 Decision and Order, and all other applications thereof, shall not
8 be affected thereby. Each term and condition of this Stipulation
9 for Surrender of Licensure, Decision and Order shall separately
10 be valid and enforceable to the fullest extent permitted by law.

11 CONTINGENCY

12 22. The parties agree that this Stipulation for
13 Surrender of Licensure, Decision and Order shall be null and void
14 and not binding upon the parties unless approved and adopted by
15 the Board, except for this paragraph, which shall remain in full
16 force and effect. Respondent fully understands and agrees that
17 in deciding whether or not to approve and adopt this Stipulation,
18 the Board may receive oral and written communications from its
19 staff and/or the Attorney General's office without notice to or
20 participation by respondent or his counsel. Communications
21 pursuant to this paragraph shall not disqualify the Board, or any
22 member thereof, from future participation in this or any other
23 matter affecting or involving respondent. In the event that the
24 Board, in its discretion, does not approve and adopt this
25 Stipulation, with the exception of this paragraph, it shall be of
26 no evidentiary value whatsoever and shall not be relied upon or
27 introduced in any disciplinary action by either party hereto.

1 Respondent further agrees that should the Board reject this
2 Stipulation for any reason, respondent will assert no claim that
3 the Board, or any member thereof, was prejudiced by its/his/her
4 review, discussion and/or consideration of this Stipulation or of
5 any matter or matters related thereto.

6 WHEREFORE, the parties agree that the Board may,
7 without further notice, opportunity to be heard, or formal
8 proceeding, issue and enter the following Decision and Order:

9 DECISION AND ORDER

10 IT IS HEREBY ORDERED that the surrender of Registered
11 Nurse License No. 530630 by William H. Mazzearella II (hereinafter
12 "respondent") is hereby accepted by the Board of Registered
13 Nursing, Department of Consumer Affairs, State of California.
14 This Stipulation for Surrender of Licensure, Decision and Order,
15 shall constitute formal disciplinary action against respondent's
16 Registered Nurse License No. 530630 and shall become a part of
17 respondent's license and disciplinary history with the Board.
18 Respondent may not petition for reinstatement of Registered Nurse
19 License No. 530630 until a period of not less than two (2) years
20 has elapsed from the effective date of this Decision. If
21 respondent ever petitions for reinstatement of Registered Nurse
22 License No. 530630, the charges and allegations contained in
23 First Amended Accusation No. 2001-56, and each of them, shall be
24 deemed true, correct, and fully admitted by respondent for all
25 purposes and proceedings including, but not limited to, any
26 proceeding involving respondent and/or any petition for
27 reinstatement he may file, any proceeding involving the Board,

1 and/or any proceeding involving any other licensing agency.
2 Furthermore, if respondent ever petitions for reinstatement of
3 Registered Nurse License No. 530630 and in the event the Board
4 grants the petition, respondent shall be required to reimburse
5 the Board, upon reinstatement of the license, for its reasonable
6 costs of investigation and prosecution in this case in the amount
7 of fifteen thousand five hundred sixty-five dollars and twenty-
8 five cents (\$15,565.25). In that event, respondent shall be
9 permitted to pay these costs in a payment plan approved by the
10 Board.

11 ACCEPTANCE

12 I, William H. Mazzaella II, have carefully read this
13 Stipulation for Surrender of Licensure, Decision and Order and
14 enter into it freely, voluntarily, intelligently, with the
15 benefit of counsel, and with full knowledge of its force and
16 effect, and do hereby surrender my Registered Nurse License No.
17 530630 to the Board for its formal acceptance. I fully
18 understand that, after signing this Stipulation, I may not
19 withdraw from it, that this Stipulation shall be submitted to the
20 Board for its consideration, and that the Board shall have a
21 reasonable period of time to consider and act on this Stipulation
22 after receiving it. By signing this Stipulation, I fully
23 understand that upon its approval and adoption by the Board, it
24 shall constitute formal disciplinary action by the Board against
25 my Registered Nurse License No. 530630, that it shall become a
26 part of my license and disciplinary history with the Board, and
27 that I will lose all rights and privileges to practice as a

1 registered nurse in the State of California. I also fully
2 understand that I may not submit a petition for reinstatement of
3 my Registered Nurse License No. 530630 until a period of not less
4 than two (2) years has elapsed from the effective date of this
5 Decision. I also fully understand that if I ever petition for
6 reinstatement of my Registered Nurse License No. 530630, the
7 charges and allegations contained in First Amended Accusation No.
8 2001-56, and each of them, shall be deemed true, correct, and
9 fully admitted by myself for all purposes and proceedings
10 including, but not limited to, any proceeding involving
11 respondent and/or any petition for reinstatement he may file, any
12 proceeding involving the Board, and/or any proceeding involving
13 any other licensing agency. Finally, I fully understand that, if
14 I ever petition for reinstatement of Registered Nurse License No.
15 530630 and in the event the Board grants the petition, I shall be
16 required to reimburse the Board, upon reinstatement of the
17 license, for its reasonable costs of investigation and
18 prosecution in this case in the amount of fifteen thousand five
19 hundred sixty-five dollars and twenty-five cents (\$15,565.25) and
20 that I shall be permitted to pay these costs in a payment plan
21 approved by the Board.

22 DATED: 12-13 2000.

23

24


WILLIAM H. MAZZARELLA, II
Respondent

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27 ///

CONCURRENCE

I concur in this Stipulation for Surrender of
Licensure, Decision and Order.

DATED: 12-13, 2000.

By Hugh Anthony Levine
HUGH ANTHONY LEVINE, ESQ.

Attorney for Complainant

I concur in this Stipulation for Surrender of
Licensure, Decision and Order.

DATED: December 19, 2000.

BILL LOCKYER, Attorney General
of the State of California
THOMAS S. LAZAR
Deputy Attorney General

By Thomas S. Lazar
THOMAS S. LAZAR
Deputy Attorney General

Attorneys for Complainant

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1 DECISION AND ORDER OF THE
2 BOARD OF REGISTERED NURSING

3 The foregoing Stipulation for Surrender of Licensure,
4 Decision and Order in Case No. 2001-56 is hereby approved and
5 adopted as the Decision and Order of the Board of Registered
6 Nursing, Department of Consumer Affairs, State of California, in
7 the above-entitled matter.

8 An effective date of April 8th, 2001,
9 has been assigned to this Decision and Order.

10 It is so ordered this 9th day of March, 2001.

11
12 *Sandra L. Erickson*
13 FOR THE BOARD OF REGISTERED NURSING
14 DEPARTMENT OF CONSUMER AFFAIRS
15 STATE OF CALIFORNIA

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27 Attachment A: First Amended Accusation No. 2001-56.

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Attachment "A"

1 BILL LOCKYER, Attorney General
of the State of California
2 THOMAS S. LAZAR,
Deputy Attorney General
3 State Bar No. 120621
110 West A Street, Suite 1100
4 San Diego, CA 92101
P.O. Box 85266
5 San Diego CA 92186-5266
Telephone: (619) 645-2117

6 Attorneys for Complainant
7

8 BEFORE THE
BOARD OF REGISTERED NURSING
9 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
10

11 In the Matter of the Accusation)	Case No. 2001-56
Against:)	
12)	
13 WILLIAM H. MAZZARELLA II)	<u>FIRST AMENDED ACCUSATION</u>
509 Minna, #467)	
14 San Francisco, CA 94103)	(Cal. Gov. Code, § 11507)
)	
15 Registered Nurse License)	
No. 530630,)	
Respondent.)	
16)	

17 COMES NOW Complainant Ruth Ann Terry, M.P.H., R.N.,
18 who, as causes for disciplinary action, alleges as follows:

19 PARTIES

20 1. Complainant is the Executive Officer of the Board
21 of Registered Nursing, Department of Consumer Affairs, State of
22 California (hereinafter the "Board"), and makes and files this
23 Accusation solely in her official capacity as such and not
24 otherwise.

25 2. On or about March 10, 1997, the Board issued
26 Registered Nurse License No. 530630 to William H. Mazzarella II
27 (hereinafter "respondent"). Said license was in full force and

1 effect at all times relevant herein and will expire on May 31,
2 2002, unless renewed.

3 JURISDICTION

4 3. This First Amended Accusation, which supercedes the
5 Accusation filed on August 31, 2000, in the above-entitled
6 matter, is made in reference to the following statutes of the
7 California Business and Professions Code (hereinafter the
8 "Code"):

9 A. Section 2750 provides, in pertinent part,
10 that every certificate holder or licensee, including
11 licensees holding temporary licenses, or licensees
12 holding licenses placed in an inactive status, may be
13 disciplined as provided in Article 3 of the Nursing
14 Practice Act.

15 B. Section 2761 provides, in pertinent part,
16 that:

17 "The board may take disciplinary action
18 against a certified or licensed nurse . . . for any of
19 the following:

20 "(a) Unprofessional conduct, which includes,
21 but is not limited to, the following:

22 "(1) Incompetence, or gross negligence in
23 carrying out usual certified or licensed nursing
24 functions.

25 ". . .

26 "(4) Denial of licensure, revocation,
27 suspension, restriction, or any other disciplinary

1 action against a health care professional license or
2 certificate by another state or territory of the United
3 States, by any other government agency, or by another
4 California health care professional licensing board. A
5 certified copy of the decision or judgment shall be
6 conclusive evidence of that action.

7 ". . .

8 "(d) Violating or attempting to violate,
9 directly or indirectly, or assisting in or abetting the
10 violating of, or conspiring to violate any provision or
11 term of this chapter or regulations adopted pursuant to
12 it.

13 ". . .

14 "(f) Conviction of a felony or of any
15 offense substantially related to the qualifications,
16 functions, and duties of a registered nurse, in which
17 event the record of the conviction shall be conclusive
18 evidence thereof.

19 ". . ."

20 C. Section 2762 provides, in pertinent
21 part, as follows:

22 "In addition to other acts constituting
23 unprofessional conduct within the meaning of this
24 chapter it is unprofessional conduct for a person
25 licensed under this chapter to do any of the following:

26 "(a) Obtain or possess in violation of law,
27 or prescribe, or except as directed by a licensed

1 physician and surgeon, dentist, or podiatrist
2 administer to himself or herself, or furnish or
3 administer to another, any controlled substance as
4 defined in Division 10 (commencing with Section 11000)
5 of the Health and Safety Code or any dangerous drug or
6 dangerous device as defined in Section 4022.

7 ". . .

8 "(e) Falsify, or make grossly incorrect,
9 grossly inconsistent, or unintelligible entries in any
10 hospital, patient, or other record pertaining to the
11 substances described in subdivision (a) of this
12 section."

13 D. Section 2764 provides as follows:

14 "The lapsing or suspension of a license by
15 operation of law or by order or decision of the board
16 or a court of law, or the voluntary surrender of a
17 license by a licentiate shall not deprive the board of
18 jurisdiction to proceed with any investigation of or
19 action or disciplinary proceeding against such license,
20 or to render a decision suspending or revoking such
21 license."

22 E. Section 4022 provides, in pertinent
23 part, that "'[d]angerous drug' . . . means any drug . .
24 . unsafe for self-use . . . and includes . . . [a]ny
25 drug that bears the legend: 'Caution: federal law
26 prohibits dispensing without prescription,' 'Rx only,'
27 or words of similar import" and "[a]ny other drug . . .

1 that by federal or state law can be lawfully dispensed
2 only on prescription or furnished pursuant to Section
3 4006."

4 F. Section 4060 provides, in pertinent
5 part, that "[n]o person shall possess any controlled
6 substance, except that furnished to a person upon the
7 prescription of a physician, dentist, podiatrist, or
8 veterinarian, or furnished pursuant to a drug order
9 issued by a physician assistant pursuant to Section
10 3502.1 or a nurse practitioner pursuant to Section
11 2836.1. . . ."

12 4. This First Amended Accusation is also made in
13 reference to section 11173(a) of the California Health and Safety
14 Code which provides, in pertinent part, "[n]o person shall obtain
15 or attempt to obtain controlled substances, or procure or attempt
16 to procure the administration of . . . controlled substances, (1)
17 by fraud, deceit, misrepresentation, or subterfuge; or (2) by the
18 concealment of a material fact."

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1 CONTROLLED SUBSTANCES AND DANGEROUS DRUGS

2 5. This First Amended Accusation is also made in
3 reference to the following controlled substances and dangerous
4 drugs:

5 (a) "Darvocet," a brand name for propoxyphene
6 napsylate, is a Schedule IV controlled substance under California
7 Health and Safety Code section 11057(c)(2) and a dangerous drug
8 within the meaning of California Business and Professions Code
9 section 4022 (formerly section 4211).

10 (b) "Demerol," a brand name for meperidine
11 hydrochloride, is a Schedule II controlled substance under
12 California Health and Safety Code section 11055(c)(17) and a
13 dangerous drug within the meaning of California Business and
14 Professions Code section 4022.

15 (c) "Methamphetamine" is Schedule II controlled
16 substance under Health and Safety Code section 11055(d)(2) and a
17 dangerous drug within the meaning of California Business and
18 Professions Code section 4022 (formerly section 4211) in that it
19 is unsafe for self-medication.

20 (d) "Morphine" is a Schedule II controlled substance
21 under California Health and Safety Code section 11055(b)(1)(M)
22 and a dangerous drug within the meaning of California Business
23 and Professions Code section 4022.

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1 (e) "Percocet," the trade name for oxycodone
2 hydrochloride and acetaminophen, is a Schedule II controlled
3 substance under California Health and Safety Code section
4 11055(b)(1)(n) and a dangerous drug within the meaning of
5 California Business and Professions Code section 4022.

6 (f) "Vicodin," a brand name for hydrocodone
7 bitartrate and acetaminophen, is a Schedule III controlled
8 substance under California Health and Safety Code section
9 11056(e)(4) and a dangerous drug within the meaning of California
10 Business and Professions Code section 4022.

11 COST RECOVERY

12 6. California Business and Professions Code section
13 125.3 provides, in pertinent part, that in any order issued in
14 resolution of a disciplinary proceeding, a board may request that
15 the administrative law judge direct a licensee found to have
16 committed a violation or violations of the licensing act to pay a
17 sum not to exceed the reasonable costs of the investigation and
18 enforcement of the case, including charges imposed by the
19 Attorney General. Under section 125.3, subdivision (c), a
20 certified copy of the actual costs or a good faith estimate of
21 costs where actual costs are not available, including
22 investigative and enforcement costs, and charges imposed by the
23 Attorney General, up to the date of the hearing, signed by the
24 designated representative of the entity bringing the proceeding
25 shall be *prima facie* evidence of the reasonable costs of
26 investigation and prosecution of the case.

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1 FIRST CAUSE FOR DISCIPLINE

2 Conviction of Offense(s) Substantially Related

3 7. Respondent has subjected his Registered Nurse
4 License No. 530630 to disciplinary action under California
5 Business and Professions Code sections 2750, 2761, 2761(a), on
6 the grounds of unprofessional conduct as defined by section
7 2761(f) of the Code, in that he has been convicted of an offense
8 or offenses substantially related to the qualifications,
9 functions, and duties of a registered nurse, as more particularly
10 alleged hereinafter:

11 (a) On or about January 16, 1998, in the
12 case entitled People of the State of California v.
13 William H. Mazzearella, Sacramento Superior and
14 Municipal Court District Case No. 9735004301,
15 respondent was convicted of one (1) count of violating
16 California Vehicle Code section 20001(a) (hit and run
17 resulting in injury), a misdemeanor. The circumstances
18 surrounding respondent's commission of this offense are
19 as follows. On or about December 13, 1997, in
20 Sacramento County, California, respondent, being the
21 driver of a motor vehicle, was involved in a traffic
22 accident resulting in injury to another person and,
23 thereafter, he failed, refused, or neglected to give
24 the injured person and to a traffic or police officer
25 at the scene of the accident information which, as a
26 matter of law, he was required to provide. As a result
27 of his conviction, respondent was sentenced to, among

1 other things, three (3) years probation, ordered not to
2 drive a motor vehicle with any measurable amount of
3 alcohol in his system, commit no criminal offense, and
4 pay restitution.

5 (b) On or about June 30, 1997, in the case
6 entitled People of the State of California v. William
7 Henry Mazzaella, Sacramento Municipal Court District
8 Case No. 97T02747, respondent was convicted, upon his
9 plea of guilty, to one (1) count of violating
10 California Vehicle Code section 23152(a) (driving under
11 the influence). The circumstances surrounding
12 respondent's commission of this offense are as follows.
13 On or about June 7, 1997, respondent drove a motor
14 vehicle in Sacramento County, California, while under
15 the influence of alcohol. As a result of his
16 conviction, respondent was sentenced to three (3) years
17 informal probation.

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1 SECOND CAUSE FOR DISCIPLINE

2 Discipline by Another State

3 8. Respondent has further subjected his Registered
4 Nurse License No. 530630 to disciplinary action under California
5 Business and Professions Code sections 2750, 2761, and 2761(a),
6 as defined by section 2761(a)(4) of the Code, in that
7 respondent's temporary permit to practice registered nursing in
8 the State of Connecticut was first summarily suspended and
9 thereafter revoked by order of the Connecticut State Board of
10 Examiners for Nursing, as more particularly alleged hereinafter:

11 (a) On or about September 15, 1999, the
12 Connecticut State Board of Examiners for Nursing
13 ordered that respondent's temporary permit to practice
14 registered nursing in the State of Connecticut be
15 summarily suspended pending a final determination by
16 the Board regarding the allegations contained in a
17 Statement of Charges.

18 (b) Thereafter, on or about March 1, 2000,
19 the Board of Examiners for Nursing, State of
20 Connecticut, issued a Memorandum of Decision in the
21 case entitled State of Connecticut, Department of
22 Public Health v. William Mazzearella II, RN, Case
23 Petition No. 990804-010-064, in which it made the
24 following Findings of Fact:

25 "1. Respondent was issued a
26 Registered Nurse Temporary Permit on June
27 24, 1999. . . .

1 "2. From on or about June 28,
2 1999 to on or about July 11, 1999, respondent
3 was employed as a registered nurse at the
4 Hospital of Saint Raphael, New Haven,
5 Connecticut. . . .

6 "3. From approximately July 3,
7 1999 to July 11, 1999, while working as a
8 registered nurse at the Hospital of Saint
9 Raphael, respondent diverted the controlled
10 substances Demerol, Morphine, Darvocet and
11 Percocet. . . .

12 "4. On July 3, 1999, a date when
13 Demerol was reported missing, respondent was
14 seen dozing at a nurses station while working
15 as a registered nurse at the Hospital of
16 Saint Raphael. . . .

17 "5. On July 11, 1999, while
18 working as a registered nurse at the Hospital
19 of Saint Raphael, respondent failed to make
20 corresponding entries on the medication
21 administration record for doses of Percocet
22 he signed out on proof of use sheets. . . .

23 "6. When confronted by hospital
24 personnel on July 11, 1999, respondent denied
25 diverting controlled substances, but refused
26 to submit to a urine drug screen. . . .

27 ///

1 (c) After concluding that respondent's
2 conduct constituted violations of the Connecticut law
3 and that his registered nurse temporary permit was
4 subject to disciplinary action, the Connecticut State
5 Board of Examiners for Nursing issued its Order
6 revoking respondent's registered nurse temporary
7 permit.

8 THIRD CAUSE FOR DISCIPLINE

9 Unprofessional Conduct Relating to Controlled
10 Substances and Dangerous Drugs

11 9. Respondent has further subjected his Registered
12 Nurse License No. 530630 to disciplinary action under California
13 Business and Professions Code sections 2750, 2761, 2761(a), and
14 2761(d), on the grounds of unprofessional conduct as defined by
15 section 2762(a) of the Code, in that on or about July 18, 2000,
16 in Sacramento County, California, respondent unlawfully possessed
17 methamphetamine, a controlled substance and dangerous drug,
18 without a lawful prescription therefore, in violation of
19 California Business and Profession Code section 4060.

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1 FOURTH CAUSE FOR DISCIPLINE

2 Unprofessional Conduct Relating to Controlled
3 Substances and Dangerous Drugs

4 10. Respondent has further subjected his Registered
5 Nurse License No. 530630 to disciplinary action under California
6 Business and Professions Code sections 2750, 2761, 2761(a), and
7 2761(d), on the grounds of unprofessional conduct as defined by
8 section 2762(e) of the Code, in that between on or about March
9 25, 1999, and on or about April 6, 1999, while on duty as a
10 registered nurse at Desert Regional Medical Center (also referred
11 to herein as "Desert Hospital"), located in Palm Springs,
12 California, respondent falsified, or made grossly incorrect,
13 grossly inconsistent, or unintelligible entries in hospital,
14 patient, or other records pertaining to controlled substances and
15 dangerous drugs, as more particularly alleged hereinafter:

16 Patient A.S.:

17 (a) On or about March 31, 1999, the
18 physician's orders for patient A.S. were for, among
19 other things, Demerol 50 mg. with Vistaril 50 mg. IM
20 (intramuscular) Q3 (every three hours) PRN (as
21 needed).

22 (b) On or about April 1, 1999, at 1940
23 hours, respondent signed out from the Pyxis, 100 mg.
24 of Demerol for patient A.S., charted administration of
25 50 mg. of Demerol at 1940 hours on the patient's
26 medication administration record under the date of
27 April 2, 1999, and failed to otherwise account for the

1 disposition of the remaining 50 mg. of Demerol in any
2 hospital record.

3 (c) On or about April 1, 1999, at 2034
4 hours, respondent signed out from the Pyxis, 100 mg.
5 of Demerol for patient A.S., made an unintelligible
6 entry in the patient's medication administration
7 record under the date April 2, 1999, apparently to
8 chart administration of 50 mg. of Demerol, and failed
9 to otherwise account for the disposition of the
10 remaining 50 mg. of Demerol in any hospital record.

11 (d) On or about April 1, 1999, at 2307
12 hours, respondent signed out from the Pyxis, 100 mg.
13 of Demerol for patient A.S., charted administration of
14 50 mg. of Demerol in the patient's medication
15 administration record under the date April 2, 1999,
16 and failed to otherwise account for the disposition of
17 the remaining 50 mg. of Demerol in any hospital
18 record.

19 (e) On or about April 2, 1999, at 0137
20 hours, respondent signed out from the Pyxis, 100 mg.
21 of Demerol for patient A.S., failed to chart
22 administration of this Demerol, and failed to
23 otherwise account for the disposition of this Demerol
24 in any hospital record.

25 (f) On or about April 2, 1999, at 0237
26 hours, respondent signed out from the Pyxis, 100 mg.
27 of Demerol for patient A.S., charted administration of

1 50 mg. of Demerol at 0300 hours in the patient's
2 medication administration record under the date April
3 2, 1999, and failed to otherwise account for the
4 disposition of the remaining 50 mg. of Demerol in any
5 hospital record.

6 (g) On or about April 2, 1999, at 0453
7 hours, respondent signed out from the Pyxis, 100 mg.
8 of Demerol for patient A.S., made an unintelligible
9 entry in the patient's medication administration
10 record under the date April 2, 1999, apparently to
11 chart administration of 50 mg. of Demerol, and failed
12 to otherwise account for the disposition of the
13 remaining 50 mg. of Demerol in any hospital record.

14 Patient B.H.:

15 (h) On or about March 28, 1999, the
16 physician's orders for patient B.H. were for, among
17 other things, Demerol 50-75 mg. IM (intramuscular) Q4
18 (every four hours) PRN (as needed).

19 (i) On or about April 1, 1999, at 1957
20 hours, respondent signed out from the Pyxis, 100 mg.
21 of Demerol for patient B.H., charted administration of
22 an unknown amount of Demerol, presumably 50 mg. or 75
23 mg., at 1957 hours on the patient's medication
24 administration record under the date of April 2, 1999,
25 noted in the Nursing Notes that he medicated patient
26 B.H. "per MD orders @ 2000 . . .", and failed to
27 otherwise account for the disposition of the remaining

1 25 mg. or 50 mg. of Demerol in any hospital record.

2 (j) On or about April 1, 1999, at 2052
3 hours, respondent signed out from the Pyxis, 100 mg.
4 of Demerol for patient B.H., charted administration of
5 an unknown amount of Demerol, presumably 50 mg. or 75
6 mg., at 2052 hours on the patient's medication
7 administration record under the date of April 2, 1999,
8 and failed to otherwise account for the disposition
9 of the remaining 25 mg. or 50 mg. of Demerol in any
10 hospital record.

11 (k) On or about April 1, 1999, at 2147
12 hours, respondent signed out from the Pyxis, 100 mg.
13 of Demerol for patient B.H. and failed to account for
14 the disposition of this 100 mg. of Demerol in any
15 hospital record.

16 (l) On or about April 1, 1999, at 2155
17 hours, respondent signed out from the Pyxis, 100 mg.
18 of Demerol for patient B.H., charted administration of
19 an unknown amount of Demerol, presumably 50 mg. or 75
20 mg., at 2155 hours on the patient's medication
21 administration record under the date of April 2, 1999,
22 noted in the Nursing Notes that he medicated patient
23 B.H. "per MD orders @ . . . 2200", and failed to
24 otherwise account for the disposition of the remaining
25 25 mg. or 50 mg. of Demerol in any hospital record.

26 (m) On or about April 1, 1999, at 2355
27 hours, respondent signed out from the Pyxis, 100 mg.

1 of Demerol for patient B.H., charted administration of
2 an unknown amount of Demerol, presumably 50 mg. or 75
3 mg., at 2355 hours on the patient's medication
4 administration record under the date of April 2, 1999,
5 and failed to otherwise account for the disposition
6 of the remaining 25 mg. or 50 mg. of Demerol in any
7 hospital record.

8 (n) On or about April 2, 1999, at 0545
9 hours, respondent signed out from the Pyxis, 100 mg.
10 of Demerol for patient B.H., charted administration of
11 an unknown amount of Demerol, presumably 50 mg. or 75
12 mg., at 0600 hours on the patient's medication
13 administration record under the date of April 2, 1999,
14 and failed to otherwise account for the disposition
15 of the remaining 25 mg. or 50 mg. of Demerol in any
16 hospital record.

17 (o) On or about April 2, 1999, at 0610
18 hours, respondent signed out from the Pyxis, 100 mg.
19 of Demerol for patient B.H. and failed to account for
20 the disposition of this 100 mg. of Demerol in any
21 hospital record.

22 Patient C.W.:

23 (p) On or about March 5, 1999, the
24 physician's orders for patient C.W., who had been
25 admitted to the Desert Regional Medical Center
26 Hospice, were for, among other things, Vicodin, one
27 tablet by mouth, Q4 (every four hours) PRN (as needed)

1 for minor pain. There were no physician's orders for
2 Demerol for this patient.

3 (q) On or about April 6, 1999, at 2034
4 hours, respondent signed out from the Pyxis, 100 mg.
5 of Demerol for patient C.W. and failed to account for
6 the disposition of this Demerol in any hospital
7 record.

8 (r) On or about April 6, 1999, at 2034
9 hours, respondent signed out from the Pyxis, 2 tablets
10 of Vicodin for patient C.W., charted administration of
11 1 tablet of Vicodin at 2040 hours on the patient's
12 medication administration record under the date of
13 April 6, 1999, but failed to otherwise account for the
14 disposition of the remaining 1 tablet of Vicodin in
15 any hospital record.

16 Patient C.B.:

17 (s) On or about April 3, 1999, the
18 physician's orders for patient C.B. were for, among
19 other things, Demerol 75 mg. IV prior to Abelcet
20 Infusion, and Demerol 50 mg. IV PRN (as needed.)
21 Thereafter, on or about April 6, 1999, at 1840 hours,
22 the Demerol 75 mg. IV order was reduced to Demerol 50
23 mg. IVP (intravenous push) prior to the infusion.

24 (t) On or about April 6, 1999, at
25 approximately 1940 hours, respondent signed out from
26 the Pyxis, 100 mg. of Demerol for patient C.B. On or
27 about April 6, 1999, at approximately 1950 hours,

1 respondent signed out from the Pyxis, another 100 mg.
2 of Demerol for patient C.B. Thereafter, respondent
3 charted administration of 50 mg. of Demerol at 2000
4 hours under the date of April 6, 1999, which had been
5 ordered to be given to patient C.B. slowly by IVP
6 prior to the Abelcet infusion. Respondent also
7 charted administration of 50 mg. of Demerol at 2000
8 hours under the date of April 6, 1999, which had been
9 ordered to be given to patient C.B., as needed, during
10 the Abelcet infusion. However, the Abelcet infusion
11 had, in fact, already been administered earlier to
12 patient C.B. at 1130 hours on April 6, 1999. Even
13 assuming that respondent, in fact, administered a
14 total of 100 mg. of Demerol to patient C.B. at 2000
15 hours on April 6, 1999, he failed to otherwise account
16 for the disposition of the remaining 100 mg. of
17 Demerol in any hospital record.

18 Patient A.F.:

19 (u) On or about April 6, 1999, the
20 physician's orders for patient A.F. did not include
21 any order for Demerol for this patient.

22 (v) On or about April 6, 1999, at 2009
23 hours, respondent signed out from the Pyxis, 100 mg.
24 of Demerol for patient A.F. without a physician's
25 order for same and, further, failed to account for the
26 disposition of this 100 mg. of Demerol in any hospital
27 record.

1 Patient N.R.:

2 (w) On or about April 6, 1999, the
3 physician's orders for patient N.R. did not include
4 any order for Demerol for this patient.

5 (x) On or about April 6, 1999, at 2028
6 hours, respondent signed out from the Pyxis, 100 mg.
7 of Demerol for patient N.R. without a physician's
8 order for same and, further, failed to account for the
9 disposition of this 100 mg. of Demerol in any hospital
10 record.

11 (y) On or about April 6, 1999, at 2136
12 hours, respondent signed out from the Pyxis, 100 mg.
13 of Demerol for patient N.R. without a physician's
14 order for same and, further, failed to account for the
15 disposition of this 100 mg. of Demerol in any hospital
16 record.

17 Respondent's Admissions:

18 (z) On or about April 6, 1999, respondent
19 was interviewed by Desert Hospital personnel regarding
20 his excessive withdrawals of Demerol from the Pyxis
21 machine at Desert Hospital. During this meeting,
22 respondent was asked to explain why he had withdrawn
23 100 mg. of Demerol when the order was for 50 mg. and
24 there was no evidence of documentation of narcotic
25 wastage by another registered nurse and why he chose
26 100 mg. instead of 50 mg. or 75 mg. as ordered since
27 these doses were available on the Pyxis machine.

1 During the course of this meeting, respondent offered
2 various explanations including the following:

3 (1) "You can't compare me to
4 other nurses especially day nurses, they are
5 too busy to medicate their patients."

6 (2) "I always let the patients
7 know how frequently they have pain
8 medication ordered and give it to them as
9 often as they need or want it because I have
10 compassion for them."

11 (3) "I wasn't aware of the
12 hospital policy on sign out and wastage of
13 narcotics, at UC, Davis, we always had a lot
14 of autonomy on medicating patients and no
15 one ever questioned us about how much pain
16 medication we gave."

17 (4) "I always sign out a higher
18 dose because usually the patients need a
19 little more than what is ordered and like
20 most nurses I usually give a little higher
21 dose if I think the patient needs it."

22 (aa) When respondent was questioned about
23 what he did with the additional Demerol that he
24 withdrew, respondent indicated that he would save it
25 in his pocket so that if the patient needed more, he
26 could just give it without having to go to the
27 medication cart to withdraw more.

1 (bb) Respondent was told that it was
2 noticed that his speech was slurred, that he had a dry
3 mouth and seemed to have difficulty articulating his
4 speech, and that it was noted that he had pinpoint
5 pupils. Respondent was asked if he would be willing
6 to voluntarily submit to a reasonable suspicion drug
7 screen. Respondent refused. When asked a second time
8 to voluntarily submit to a reasonable suspicion drug
9 screen, respondent again refused. On that same date,
10 April 6, 1999, respondent was removed from duty and
11 sent home. Respondent's employment with Desert
12 Hospital was terminated on April 7, 1999.

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1 FIFTH CAUSE FOR DISCIPLINE

2 Unprofessional Conduct Relating to Controlled
3 Substances and Dangerous Drugs

4 11. Respondent has further subjected his Registered
5 Nurse License No. 530630 to disciplinary action under California
6 Business and Professions Code sections 2750, 2761, 2761(a), and
7 2761(d), on the grounds of unprofessional conduct as defined by
8 section 2762(a) of the Code, in that between on or about March
9 25, 1999, and on or about April 6, 1999, while on duty as a
10 registered nurse at Desert Regional Medical Center, located in
11 Palm Springs, California, respondent obtained and possessed
12 unknown quantities of Demerol and Vicodin, both controlled
13 substances and dangerous drugs, by fraud, deceit,
14 misrepresentation or subterfuge in violation of California Health
15 and Safety Code section 11173(a), and without a lawful
16 prescription therefore in violation of California Business and
17 Profession Code section 4060, as more particularly alleged
18 hereinafter: Paragraphs 10, 10(a), 10(b), 10(c), 10(d), 10(e),
19 10(f), 10(g), 10(h), 10(i), 10(j), 10(k), 10(l), 10(m), 10(n),
20 10(o), 10(p), 10(q), 10(r), 10(s), 10(t), 10(u), 10(v), 10(w),
21 10(x), 10(y), 10(z), 10(z)(1), 10(z)(2), 10(z)(3), 10(z)(4),
22 10(aa), and 10(bb), above, are hereby incorporated by reference
23 and realleged as if fully set forth herein.

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PRAYER

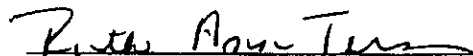
WHEREFORE, complainant requests that a hearing be held on the matters alleged herein, and that following said hearing, that the Board issue its decision:

1. Revoking or suspending Registered Nurse License No. 530630 heretofore issued to respondent William H. Mazzaella II;

2. Ordering respondent to pay, under section 125.3, the reasonable costs of investigation and enforcement in this case; and

3. Taking such other and further action as the Board deems necessary and proper to protect the public health, safety and welfare.

DATED: Oct. 31, 2000.


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California

Complainant

TSL/tsl
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